IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3694 OF 2007

Prem K. Daryanani. ..Petitioner.

V/s.

Kalyanji J. Tanna & Ors. ..Respondents.

Mr.R.M.Nakhawa with Mr.Vasant Dhawan for petitioner.

Mr. S.U.Kamdar with Brijesh Upadhaya i/b. Purnanand & Co. for respondents.

CORAM: A.M.KHANWILKAR,J

DATE : JULY 4, 2007.

P.C. :

1. Heard counsel for the parties.

2. I see no merits in this petition. The Court below has rightly observed that the amendment sought by the petitioner was an attempt to incorporate new ground of challenge in the pending petition. That amendment, if granted, would be beyond the specified statutory period provided under section 34(3) of the Act of 1996. It would have been a different matter, if the amendment was to give better particulars of the ground already stated in the main petition. Counsel for the petitioner is not in a position to point out any assertion in the main petition that such ground is already taken or forms part of the

main petition.

3. Counsel for the respondents has rightly pressed into service decision of our High Court reported in **2001(Supp.2) Bom.C.R.632** in the case of **Esteem Mercantile Pvt.Ltd. & Anr. V/s. K.H.Parekh & Anr.** which has taken the view that such amendment cannot be permitted. The argument of the petitioner that delay in seeking amendment of the main petition can be condoned by exercising discretionary power of the Court, in fact, has also been answered in paragraph-11 of the reported decision. The upper limit for exercising such discretionary power is specified by the Statute as 30 days. In the present case, the application was obviously beyond the said period, for which reason no fault can be found with the ultimate decision of the lower Court.

4. Hence dismissed.